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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

RE: **Ex Parte Comments - Two Copies filed *In the Matter of Amendment of the Commission's Ex Parte Rules in Joint Board Proceedings GC Docket No. 98-73***

Dear Madam Secretary,

Today I had a brief telephone discussion of NARUC's positions in this docket with Ms. Valerie Yates of the FCC's Common Carrier Bureau. During the course of the conversation, I briefly outlined NARUC's position and the rationale for it. I also reiterated a previous procedural option first suggested by concerns raised to me by OGC, i.e., that to the extent there are due process concerns concerning public opportunity to comment on NARUC's proposal, that the FCC may wish to consider put our proposal out for additional comment before taking action in this docket. After the conversation, I determined to forward this written ex parte - via e-mail to Larry Strickling and Ms. Yates. I also forwarded a copy of one of my two previous ex parte's in this docket to Ms. Yates. As I discussed with Ms. Yates - NARUC's resolution makes two points:

First, as our earlier ex parte filing suggested, the resolution supports adoption of the NPRM proposal that written or oral presentations from State commissioners or State staff members to FCC commissioners or FCC staff members be exempt from ex parte restrictions, provided that they are not of substantial significance and are not clearly intended to affect the ultimate decision. This position generally support; and

Second, as to written or oral presentations or discussions among State commissioners or State staff members, the resolution urges the FCC to consider making the following communications exempt from ex parte restrictions, *provided that new factual information that is relied upon in a final decision is disclosed not later than the time of issuance of the decision:*

a) All communications (and related materials) between State commissioners and staff; or in the alternative,

b) Both of the following:

1) all communications (and related materials) by State commissioners or staff made during meetings, both regular and special, both formal and informal, where attendance is limited to State commissioners, staff and FCC representatives, and at which the work of a Joint Board or the FCC in relation to a Joint Board proceeding, is discussed; and

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The resolution also specifically calls on the FCC to consider whether accepting these alternatives would be understood by Congress as needed to accommodate the special relationship between State Joint Board representatives and other State commissions.

RATIONALE FOR NARUC'S POSITION RE: STATE-TO-STATE CONTACTS

It is clear the joint boards established under the Section 410 of the Communications Act of 1934 are designed to give all the States representatives on certain issues of mutual concern to State and Federal regulators at the adjudicatory level.

In the case of State-specific disputes under (a) the representative "character of the State participants is crystal clear and direct because the statute requires the FCC to appoint a member "from each of the States in which the wire or radio communication affected by or involved in the proceeding takes place or is proposed."

In the case of Joint Board's established pursuant to 410(c) it simply is not practical to have a State commissioner representative on the Joint Board from all 50 States, the U.S. Territories, and D.C. Accordingly, Congress chose to allow NARUC to appoint "representatives" to represent ALL the States.

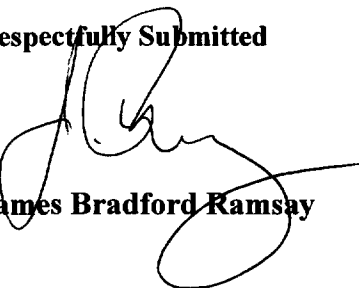
So, the FCC should modify the ex parte rules in a way that recognizes that State Commissioners that are not appointed to a particular Joint Board - are NOT the same as other parties to a Joint Board proceedings - at least with respect to their communications to their "representatives" on the Joint Board.

The Joint Board process was clearly established to give the Sovereign States, and their commissioners - *all of whom are sworn to protect the public interest just as their federal counterparts* - significantly greater access to and input into rules and procedures that clearly impact them and their obligations to serve the public interest directly and significantly.

As the events since the passage of the 1996 legislation have made very clear - the FCC's *ex parte* regulations have significantly inhibited free State commissioner-to-State Commissioner Joint Member discussions to the detriment of the Joint Board process.

NARUC's proposal is to reduce somewhat the filing requirements on communications ONLY between State Commissioners and their Congressionally specified "representative" State Commission Joint Board Members. The focus is not on the State to FCC proposal outlined in the FCC's NPRM. Such reduced requirements on State Commissioner-to-State Commissioner Joint Board Member contacts are consistent with existing *ex parte* regulations the FCC applies to its own communications with other agencies and the clear intent of Congress that sitting State members on Joint Boards represent the interests of all the States.

Respectfully Submitted

A handwritten signature in black ink, appearing to read "James Bradford Ramsay", written over the printed name.

James Bradford Ramsay